

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2439

Introduced by Assembly Member Nazarian

February 19, 2016

An act to ~~amend Section 120991~~ of *add Section 120992* to the Health and Safety Code, relating to HIV testing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2439, as amended, Nazarian. HIV testing.

Existing law requires that every patient who has blood drawn at a primary care clinic, as defined, and who has consented to the test to be offered an HIV test that is consistent with the United States Preventive Services Task Force recommendations for screening for HIV infection. Existing law specifies the manner in which the results of that test are provided.

This bill would create a pilot project, administered by the State Department of Public Health, to assess and make recommendations regarding the effectiveness of the routine offering of an HIV test in the emergency department of a hospital. The bill would require the department to select 4 hospitals, as provided, that have emergency departments to participate in the pilot project. The bill would require the participating hospitals to offer an HIV test to any patient in the hospital emergency department, as provided, to collect specified information, and to report the information to the department. The pilot project would commence on March 1, 2017, and end on February 28, 2019. The bill would require the department, by July 1, 2019, to complete a report to the Legislature on the findings of the 4 hospitals

in the pilot project and make recommendations about routine HIV testing in hospital emergency departments.

~~This bill would, additionally, apply those provisions to the emergency department of a general acute care hospital. The bill would authorize a hospital emergency department to comply with certain requirements to provide information, counseling, and advice to a patient after the results of an HIV test have been received by providing the patient with printed material that includes that information and advice. The bill would exempt a hospital emergency department from the testing requirements if the personnel in the emergency department determine that the person is being treated for a life-threatening emergency or if the person lacks the capacity to consent to an HIV test.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 120992 is added to the Health and Safety*
2 *Code, to read:*
3 *120992. (a) There is hereby created a pilot project, to be*
4 *administered by the department, in order to assess and make*
5 *recommendations regarding the effectiveness of the routine offering*
6 *of an HIV test in the emergency department of a hospital.*
7 *(b) The department shall select four hospitals that have*
8 *emergency departments to participate in the pilot project.*
9 *(1) Two of the hospitals shall be selected from large urban*
10 *areas.*
11 *(2) One hospital shall be selected from a small urban or*
12 *suburban area.*
13 *(3) One hospital shall be selected from a rural area.*
14 *(c) Each hospital in the pilot project shall offer an HIV test to*
15 *any patient in the hospital emergency department who has*
16 *consented to the HIV test pursuant to Section 120990. The*
17 *emergency department shall comply with subdivision (h) of Section*
18 *120990 and may choose to comply either by using emergency*
19 *department or other hospital personnel or engaging the services*
20 *of an HIV organization that has experience in prevention*
21 *counseling for persons at risk for HIV.*

1 (d) A hospital in the pilot project shall not offer a test to any
2 person who is being treated for a life-threatening emergency or
3 who lacks the capacity to consent to an HIV test.

4 (e) A hospital in the pilot project shall comply with Section 6926
5 of the Family Code when testing a minor 12 years of age or older.

6 (f) A hospital in the pilot project shall be authorized to charge
7 a patient for the cost of the HIV testing.

8 (g) A hospital in the pilot project shall be directed by the
9 department to collect and report data on the following topics:

10 (1) The frequency of HIV test offers.

11 (2) The frequency of consent or nonconsent to an HIV test and
12 any reasons given by the patient for the consent or the nonconsent.

13 (3) The time taken to offer an HIV test and secure consent from
14 a patient and the time taken to provide information and counseling
15 pursuant to subdivision (h) of Section 120990.

16 (4) The aggregate HIV positivity rate.

17 (5) The frequency with which patients agree to participate in a
18 session to receive information and counseling pursuant to
19 subdivision (h) of Section 120990 and the reasons that patients
20 give for refusing to participate.

21 (6) The frequency of patients leaving the emergency department
22 without receiving their test results.

23 (h) A hospital in the pilot project shall provide information to
24 the department regarding its practices and protocols for
25 implementing the offer of an HIV test and the required followup
26 to the test, as well as an assessment of the effectiveness of those
27 practices and protocols.

28 (i) (1) The pilot project shall commence on March 1, 2017, and
29 end on February 28, 2019.

30 (2) By July 1, 2019, the department shall complete a report to
31 the Legislature on the findings of the four hospitals in the pilot
32 project and make recommendations about routine HIV testing in
33 hospital emergency departments. In preparing the report to the
34 Legislature, the department shall solicit input from a broad range
35 of HIV testing and hospital stakeholders.

36 (j) (1) The requirement for submitting a report imposed under
37 paragraph (2) of subdivision (i) is inoperative on July 1, 2023,
38 pursuant to Section 10231.5 of the Government Code.

1 (2) A report submitted pursuant to paragraph (2) of subdivision
2 (i) shall be submitted in compliance with Section 9795 of the
3 Government Code.

4 (k) For purposes of this section, "hospital" means a general
5 acute care hospital as defined in subdivision (a) of Section 1250.

6 ~~SECTION 1. Section 120991 of the Health and Safety Code~~
7 ~~is amended to read:~~

8 ~~120991. (a) Each patient who has blood drawn at a primary~~
9 ~~care clinic or hospital emergency department and who has~~
10 ~~consented to the HIV test pursuant to Section 120990 shall be~~
11 ~~offered an HIV test. The primary care or hospital emergency~~
12 ~~department clinician shall offer an HIV test consistent with the~~
13 ~~United States Preventive Services Task Force recommendation~~
14 ~~for screening HIV infection. This subdivision shall not apply if~~
15 ~~the primary care clinic or hospital emergency department has tested~~
16 ~~the patient for HIV or if the patient has been offered the HIV test~~
17 ~~and declined the test within the previous 12 months. Any~~
18 ~~subsequent testing of a patient who has been tested by the primary~~
19 ~~care clinic or hospital emergency department shall be consistent~~
20 ~~with the most recent guidelines issued by the United States~~
21 ~~Preventive Services Task Force.~~

22 ~~(b) HIV testing of minors 12 years of age or older shall comply~~
23 ~~with Section 6926 of the Family Code.~~

24 ~~(c) This section shall not prohibit a primary care clinic or~~
25 ~~hospital emergency department from charging a patient to cover~~
26 ~~the cost of HIV testing. The primary care clinic or hospital~~
27 ~~emergency department shall be deemed to have complied with this~~
28 ~~section if an HIV test is offered.~~

29 ~~(d) A primary care clinic or hospital emergency department~~
30 ~~shall attempt to provide test results to the patient before he or she~~
31 ~~leaves the facility. If that is not possible, the facility may inform~~
32 ~~the patient who tests negative for HIV by letter or by telephone,~~
33 ~~and shall inform a patient with a positive test result in a manner~~
34 ~~consistent with state law. However, in any case, the primary care~~
35 ~~clinic or hospital emergency department shall comply with~~
36 ~~subdivision (h) of Section 120990. A hospital emergency~~
37 ~~department is deemed to be in compliance with subdivision (h) of~~
38 ~~Section 120990 if the hospital emergency department provides~~
39 ~~printed material to the patient that includes the information and~~
40 ~~advice described in that subdivision.~~

1 ~~(e) A hospital emergency department shall not be required to~~
2 ~~comply with this section if medical personnel in the emergency~~
3 ~~department determine that the person is being treated for a~~
4 ~~life-threatening emergency or if they determine that the person~~
5 ~~lacks the capacity to consent to an HIV test.~~

6 ~~(f) For purposes of this section, the following terms have the~~
7 ~~following meanings:~~

8 ~~(1) “Hospital” means a general acute care hospital as defined~~
9 ~~in subdivision (a) of Section 1250.~~

10 ~~(2) “Primary care clinic” means a primary care clinic as defined~~
11 ~~in subdivision (a) of Section 1204 or subdivision (g), (h), or (j) of~~
12 ~~Section 1206.~~